IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:08cv448

PAULA M. B. SAUNDERS; and SHELTON SAUNDERS,	
Plaintiffs,	
Vs.	ORDER
COUNTRYWIDE HOME LOANS, INC.,	
Defendant.))

THIS MATTER is before the court on defendant's Motion to Dismiss. Having initially considered such motion and reviewed the pleadings, and it appearing that plaintiffs are proceeding without counsel, the court enters the following findings and Order.

In accordance with <u>Roseboro v. Garrison</u>, 528 F.2d 309 (4th Cir. 1975), plaintiffs are cautioned that they carry a heavy burden in responding to a motion to dismiss for failure to state a cause of action. Further, defendant has argued that plaintiffs have failed to allege fraud with the specificity required by Rule 9(b).

Generally, Rule 12(b)(6), Federal Rules of Civil Procedure, provides for dismissal where a party has failed to state a cause of action as a matter of law. In responding to the motion to dismiss, plaintiffs must show that they have made sufficient allegations under Rule 9(b) and that they have stated a cause of action recognized by law. Finally, plaintiffs are advised that if they fail to respond to defendant's motion, the court will summarily recommend that this action be

dismissed. Finally, plaintiffs are advised to seek the advice of an attorney licensed to practice in federal court.

ORDER

IT IS, THEREFORE, ORDERED that plaintiffs respond to defendant's Motion to Dismiss not later than January 23, 2009.

Signed: January 5, 2009

Dennis L. Howell United States Magistrate Judge

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